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## THE PARTY OF THE LOYALISTS IN THE AMERICAN REVOLUTION

### I

THERE cannot be a more authentic introduction to the Loyalists of our Revolution, than is to be had through an acquaintance with their literature. As we turn over the pages of that literature, — political essays, pamphlets, sermons, songs, satires, epigrams, burlesques, lampoons, — a literature now having almost a pathetic insignificance as it slumbers under a hundred years of dust and contempt, — perhaps the first notable fact that calls for attention is, that, in point of time, its development lags somewhat behind that of the Revolutionist party, and does not become of much value until within the twelvemonth preceding the Lexington and Concord skirmishes, — that is, until about the time of the Congress of 1774.

Of course, from the very beginning of the dispute there had been American writers who, while doubting the wisdom of the colonial policy of the English ministry, likewise doubted the soundness of the constitutional claim set up in opposition to it by many of their American brethren; and, at any rate, deprecated all violent or extreme measures in the assertion of that claim. Nevertheless, during the eight or ten years prior to 1774, it might fairly have been assumed that this Anglo-American dispute was but one of a long series of political disagreements that had broken out, at various times, in John Bull's large and vivacious family, and that this particular dispute would probably run its natural course and come to an end, just as its predecessors had done, without any permanent rupture of the interior relations of the family, and, indeed, to the great advantage of all its members through a clearer definition of those constitutional principles which had enabled them all to live together so long under the same enormous and kindly roof. Not until after the failure of Lord North's clever device for inducing the Americans to take the taxation which they liked so little, along with that cheering beverage which they liked so much, was it necessary for any person to regard the dispute as one of peculiarly deep and tragical import. It was, per-

haps, on account of this confidence of theirs in the natural limitations of the problem then vexing the colonies and the mother-country, that so many of the ablest conservative writers in America refrained, in that stage of affairs, from engaging very actively in the discussion. Thus it is that we may in a measure explain why, in this controversy, so little part was taken prior to 1774 by the most powerful of all the Loyalist writers, — Daniel Leonard, Joseph Galloway, Samuel Seabury, and Jonathan Odell.

But with the events of the years 1773 and 1774, came a total change in the situation, and in the attitude of all parties toward it: first, the repulsion of the gentle tea-ships by several American communities, and the destruction of valuable property belonging to liegemen of the king; then the series of stern retaliatory measures to which Parliament was thereby drawn; finally, by one large portion of the colonists, the fearless summons for a great council of their own delegates, solemnly to determine and to proclaim some common plan of action. With the gathering of this celebrated council—the First Continental Congress—the wayfaring American though a fool could not err in reading, in very crimson letters painted on the air in front of him, the tidings of the arrival of a race-crisis altogether transcending those ordinary political altercations which had from time to time disturbed, and likewise quickened and clarified, the minds of his British ancestors.

Naturally, therefore, from about this time the process of political crystallization among the colonists went on with extraordinary rapidity. Then, every man had to define both to himself and to his neighbor, what he thought, how he felt, what he meant to do. Then, too, the party of insubordination in these thirteen agitated communities had, for the first time, a common and a permanent organ for the formulation of the political doctrine and purpose which should sway them all. Finally, around this official and authoritative statement of doctrine and purpose, the opposing tendencies of thought could clash and do intelligent battle, — having a set of precise propositions to fight for or to fight against, and having, likewise, the grim consciousness that such fight was no longer a merely academic one.

In a valid sense, therefore, it may be said that the formation of the great Loyalist party of the American Revolution dates from about the time of the Congress of 1774. Moreover, its period of greatest activity in argumentative literature is from that time until the early summer of 1776, when nearly all further use for argumentative literature on that particular subject was brought to an end by the Declaration of Independence. The writings of the

Loyalists, from the middle of 1776 down to 1783, form no longer a literature of argumentative discussion, but rather a literature of emotional appeal, exultant, hortatory, derisive, denunciatory, — a literature chiefly lyrical and satirical.

## II

Even yet, in this last decade of the nineteenth century, it is by no means easy for Americans — especially if, as is the case with the present writer, they be descended from men who thought and fought on behalf of the Revolution — to take a disinterested attitude, that is, an historical one, toward those Americans who thought and fought against the Revolution. Both as to the men and as to the questions involved in that controversy, the rehearsal of the claims of the victorious side has been going on among us, now for a hundred years or more, in tradition, in history, in oration, in song, in ceremony. Hardly have we known, seldom have we been reminded, that the side of the Loyalists, as they called themselves, of the Tories, as they were scornfully nicknamed by their opponents, was even in argument not a weak one, and in motive and sentiment not a base one, and in devotion and self-sacrifice not an unheroic one. While the war was going forward, of course the animosities aroused by it were too hot and too fierce, especially between the two opposing groups of Americans, to permit either party in the controversy to do justice to the logical or to the personal merit of the other. When at last the war came to an end, and the champions of the Revolution were in absolute triumph, then the more prominent Tories had to flee for their lives; they had to flee from the wrath that had come, and to bury themselves, either in other lands or in obscure places of this land. Then, of course, they and all their detested notions and emotions and deeds, whether grand or petty or base, went down out of sight, submerged beneath the abhorrence of the victorious Revolutionists, and doomed, as it appears, to at least one solid century of oratorical and poetical infamy, which has found its natural and organized expression in each recurring Fourth of July, and in each reappearance of the birthday of Washington. May it not, however, at last be assumed that a solid century should be, even under such conditions, a sufficient refrigerator for overheated political emotion? May we not now hope that it will not any longer cost us too great an effort to look calmly, even considerately, at least fairly, upon what, in the words and acts of the Tories, our fathers and grandfathers could hardly endure to look

at all? And, surely, our willingness to do all this can hardly be lessened by the consideration that, "in dealing with an enemy, not only dead, but dead in exile and in defeat, candor prescribes the fullest measure of generous treatment."<sup>1</sup> At any rate, the American Revolution affords no exemption from the general law of historic investigation, — that the truth is to be found only by him who searches for it with an unbiassed mind. Until we shall be able to take, respecting the problems and the parties of our own Revolution, the same attitude which we freely and easily take respecting the problems and parties of other revolutions — that is, the attitude, not of hereditary partisans, but of scientific investigators — will it be forbidden us to acquire a thoroughly discriminating and just acquaintance with that prodigious epoch in our history.

### III

As preliminary to some examination of the argumentative value of the position taken by the Loyalist party, let us inquire, for a moment, what recognition may be due to them simply as persons. Who and what were the Tories of the American Revolution? As to their actual number, there is some difficulty in framing even a rough estimate. No attempt at a census of political opinions was ever made during that period; and no popular vote was ever taken of a nature to indicate, even approximately, the numerical strength of the two opposing schools of political thought. Of course, in every community there were Tories who were Tories in secret. These could not be counted, for the good reason that they could not be known. Then, again, the number of openly avowed Tories varied somewhat with variations in the prosperity of the Revolution. Still further, their number varied with variations of locality. Throughout the entire struggle, by far the largest number of Tories was to be found in the colony of New York, particularly in the neighborhood of its chief city. Of the other middle colonies, while there were many Tories in New Jersey, in Delaware, and in Maryland, probably the largest number lived in Pennsylvania, — a number so great that a prominent officer<sup>2</sup> in the Revolutionary army described it as the "enemies' country." Indeed, respecting the actual preponderance of the Tory party in these two central colonies, an eminent champion of the Revolution bore this startling testimony: "New York and Pennsylvania were so nearly divided — if their propensity was

<sup>1</sup> Winthrop Sargent, Preface to *The Loyalist Poetry*, etc., vi.

<sup>2</sup> Timothy Pickering.

not against us—that if New England on one side and Virginia on the other had not kept them in awe, they would have joined the British.”<sup>1</sup> Of the New England colonies, Connecticut had the greatest number of Tories; and next, in proportion to population, was the district which was afterwards known as the State of Vermont. Proceeding to the colonies south of the Potomac, we find that in Virginia, especially after hostilities began, the Tories were decidedly less in number than the Whigs. In North Carolina, the two parties were about evenly divided. In South Carolina, the Tories were the more numerous party; while in Georgia their majority was so great that, in 1781, they were preparing to detach that colony from the general movement of the rebellion, and probably would have done so, had it not been for the embarrassing accident which happened to Cornwallis at Yorktown in the latter part of that year.

If we may accept these results as giving us a fair, even though crude, estimate concerning the local distribution of the Tories, we have still to come back to the question which deals with their probable number in the aggregate. Naturally, on such a problem, the conclusions reached by the opposing parties would greatly differ. Thus, the Tories themselves always affirmed that could there have been a true and an untainted vote, they would have had a great majority; and that the several measures of the Revolution had not only never been submitted to such a test, but had been resolved upon and forced into effect by a few resolute leaders who, under the names of committees of correspondence, committees of observation, committees of safety, conventions, and congresses, had assumed unconstitutional authority, and had pretended, without valid credentials, to speak and to act for the whole population of their towns, or counties, or provinces. To translate the Tory explanation into the language of the present day, it may be said that, in their belief, the several measures of the Revolution were the work of a well-constructed and powerful political machine, set up in each colony, in each county, in each town, and operated with as much skill and will and unscrupulousness as go into the operation of such machines in our time. This opinion, which, in its substance, was most ably presented in those days by the Tory writers, has been adopted by a very candid English historian now living, who says of the American Revolution that, like most other revolutions, it “was the work of an energetic minority, who succeeded in committing an undecided and fluctuating majority to courses for

<sup>1</sup> *The Works of John Adams*, X. 63.

which they had little love, and leading them step by step to a position from which it was impossible to recede."<sup>1</sup>

Of course, with such an estimate as to the superior numbers of the Tories, their own opponents did not agree; but they did admit that the Tory party was at any rate a very large one. Perhaps no statesman on the Whig side was better informed on such a subject than John Adams, or was less inclined to make an undue concession to the enemy; and he gave it as his opinion that about one-third of the people of the thirteen States had been opposed to the measures of the Revolution in all its stages.<sup>2</sup> This opinion of John Adams, which he affirmed more than once in the latter part of his life, was on one occasion mentioned by him in a letter to his old compatriot, Thomas McKean, Chief Justice of Pennsylvania, a signer of the Declaration of Independence, and a member of every American Congress from that of 1765 to the close of the Revolution. "You say," wrote McKean in reply, "that . . . about a third of the people of the colonies were against the Revolution. It required much reflection before I could fix my opinion on this subject; but on mature deliberation I conclude you are right, and that more than a third of influential characters were against it."<sup>3</sup>

Out of three millions of people, then, at least one million did not approve of the policy of carrying their political opposition to the point of rebellion and separation. According to John Adams and Thomas McKean, every third American whom we could have encountered in this part of the world between 1765 and 1783 was a Loyalist. Surely, an idea—a cause—that was cherished and clung to, amid almost every form of obloquy and disaster, by so vast a section of American society, can hardly deserve any longer to be turned out of court in so summary and contemptuous a fashion as that with which it has been commonly disposed of by American writers.

#### IV

After the question of number, very properly comes that of quality. What kind of people were these Tories, as regards intelligence, character, and standing in their several communities?

And here, brushing aside, as unworthy of historical investigation, the partisan and vindictive epithets of the controversy,—many of which, however, still survive even in the historical writings of our own time,—we shall find that the Loyalists were, as might be expected, of all grades of personal worth and worthlessness; and

<sup>1</sup> Lecky, *A History of England in the Eighteenth Century*, new ed., IV. 224.

<sup>2</sup> *The Works of John Adams*, X. 63, 110. <sup>3</sup> *Ibid.*, 87.

that, while there was among them, no doubt, the usual proportion of human selfishness, malice, and rascality, as a class they were not bad people, much less were they execrable people—as their opponents at the time commonly declared them to be.

In the first place, there was, prior to 1776, the official class; that is, the men holding various positions in the civil and military and naval services of the government, their immediate families, and their social connections. All such persons may be described as inclining to the Loyalist view in consequence of official bias.

Next were certain colonial politicians who, it may be admitted, took a rather selfish and an unprincipled view of the whole dispute, and who, counting on the probable, if not inevitable, success of the British arms in such a conflict, adopted the Loyalist side, not for conscience' sake but for profit's sake, and in the expectation of being rewarded for their fidelity by offices and titles, and especially by the confiscated estates of the rebels, after the rebels themselves should have been defeated, and their leaders hanged or sent into exile.

As composing still another class of Tories, may be mentioned probably a vast majority of those who stood for the commercial interests, for the capital and the tangible property of the country, and who, with the instincts natural to persons who have something considerable to lose, disapproved of all measures for pushing the dispute to the point of disorder, riot, and civil war.

Still another class of Loyalists was made up of people of professional training and occupation, — clergymen, physicians, lawyers, teachers, — a clear majority of whom seem to have been set against the ultimate measures of the Revolution.

Finally, and in general, it may be said that a majority of those who, of whatever occupation, of whatever grade of culture or of wealth, would now be described as conservative people, were Loyalists during the American Revolution. And by way of concession to the authority and force of truth, what has to be said respecting the personal quality commonly attaching to those who, in any age or country, are liable to be classed as conservative people? Will it be denied that within that order of persons, one may usually find at least a fair portion of the cultivation, of the moral thoughtfulness, of the personal purity and honor, existing in the entire community to which they happen to belong?

Precisely this description, at any rate, applies to the conservative class in the American colonies during that epoch,—a majority of whom dissented from those extreme measures which at last trans-



formed into a revolution a political movement which began with the avowed purpose of confining itself to a struggle for redress of grievances, and within the limits of constitutional opposition. If, for example, we consider the point with reference to cultivation and moral refinement, it may seem to us a significant fact that among the members of the Loyalist party are to be found the names of a great multitude of the graduates of our colonial colleges — especially of Harvard, William and Mary, Yale, Princeton, and Pennsylvania. Thus, in an act of banishment passed by Massachusetts, in September, 1778, against the most prominent of the Tory leaders in that State, one may now read the names of three hundred and ten of her citizens. And who were they? Let us go over their names. Are these the names of profligates, and desperadoes, or even of men of slight and equivocal consideration? To any one at all familiar with the history of colonial New England, that list of men, denounced to exile and loss of property on account of their opinions, will read almost like the beadroll of the oldest and noblest families concerned in the founding and upbuilding of New England civilization. Moreover, of that catalogue of three hundred and ten men of Massachusetts, banished for an offence to which the most of them appear to have been driven by conscientious convictions, more than sixty<sup>1</sup> were graduates of Harvard. This fact is probably a typical one; and of the whole body of the Loyalists throughout the thirteen colonies, it must be said that it contained, as one of its ablest antagonists long after admitted, "more than a third of influential characters," — that is, a very considerable portion of the customary chiefs and representatives of conservatism in each community.

By any standard of judgment, therefore, according to which we usually determine the personal quality of any party of men and women in this world — whether the standard be intellectual or moral, or social, or merely conventional — the Tories of the Revolution seem to have been not a profligate party, nor an unprincipled one, nor a reckless or even a light-minded one, but, on the contrary, to have had among them a very considerable portion of the most refined, thoughtful, and conscientious people in the colonies. So true is this, that in 1807 a noble-minded Scottish woman, Mistress Anne Grant of Laggan, who in her early life had been familiar with American colonial society, compared the loss which America suffered in consequence of the expatriation of the Loyalists by the Revolution, to the loss which France suffered in consequence

<sup>1</sup> George E. Ellis, in *Narr. and Crit. Hist. Am.*, VII. 195.

of the expatriation of so many of her Protestants by the revocation of the Edict of Nantes.<sup>1</sup>

So much, then, must be said on behalf of the Tories of the Revolution,—in point of numbers, they were far from inconsiderable, and in point of character, they were far from despicable. On the one hand, they formed no mere rump party. If they were not actually a majority of the American people,—as they themselves always claimed to be, and as some careful scholars now think they were,—they did at least constitute a huge minority of the American people: they formed a section of colonial society too important on the score of mere numbers to be set down as a paltry handful of obstructives; while in any rightful estimate of personal value, quite aside from mere numbers, they seem to deserve the consideration which conscientious and cultivated people of one party never ask in vain of conscientious and cultivated people of the opposite party,—at least after the issues of the controversy are closed.

## V

Pressing forward, then, with our investigation, we proceed to apply to the American Loyalists that test by which we must judge any party of men who have taken one side, and have borne an important share in any great historical controversy. This is the test of argumentative value. It asks whether the logical position of the party was or was not a strong one.

Even yet it is not quite needless to remind ourselves that the American Revolution was a war of argument long before it became a war of physical force; and that, in this war of argument, were involved a multitude of difficult questions,—constitutional, legal, political, ethical,—with respect to which honest and thoughtful people were compelled to differ. All these questions, however, may, for our purposes, be reduced to just two: first, the question of what was lawful under the existing constitution of the British empire; and secondly, the question of what was expedient under the existing circumstances of the colonies. Now, paradoxical as it may seem to many of the American descendants of the victorious party, each of those questions had two very real and quite opposite sides; much was to be said for each side; and for the Tory side so much was to be said in the way of solid fact and of valid reasoning, that an intelligent and a noble-minded American might have taken that side, and might have stuck to it, and might have gone into battle for it, and might have imperilled all the interests of his

<sup>1</sup> Mrs. Anne Grant, *Memoirs of an American Lady*, etc., 353.

life in defence of it, without any just impeachment of his reason or of his integrity — without deserving to be called, then or since then, either a weak man or a bad one.

That we may develop before our eyes something of the argumentative strength of the Loyalist position, in the appeal which it actually made to honest men at that time, let us take up for a moment the first of the two questions to which, as has just been said, the whole dispute may be reduced, — the question of what was lawful under the existing constitution of the British Empire. Let us strike into the very heart of that question. It was the contention of the American Whigs that the British Parliament could not lawfully tax us, because by so doing it would be violating an ancient maxim of the British constitution: "No taxation without representation." Have we not all been taught from our childhood that the citation of that old maxim simply settled the constitutional merits of the whole controversy, and settled it absolutely in favor of the Whigs? But did it so settle it? Have we not been accustomed to think that the refusal of the American Tories to give way before the citation of that maxim was merely a case of criminal stupidity or of criminal perversity on their part? But was it so?

On the contrary, many of the profoundest constitutional lawyers in America, as well as in England, both rejected the foregoing Whig contention, and at the same time admitted the soundness and the force of the venerable maxim upon which that contention was alleged to rest. Thus the leading English jurists, who supported the parliamentary taxation of the colonies, did not dispute that maxim. Even George Grenville, the author and champion of the Stamp Act, did not dispute it. "The colonies claim, it is true," said he, "the privilege which is common to all British subjects, of being taxed only with their own consent, given by their representatives. And may they ever enjoy the privilege in all its extent; may this sacred pledge of liberty be preserved inviolate to the utmost verge of our dominions, and to the latest pages of our history! I would never lend my hand toward forging chains for America, lest, in so doing, I should forge them for myself. But the remonstrances of the Americans fail in the great point of the colonies not being represented in Parliament, which is the common council of the whole empire, and as such is as capable of imposing internal taxes as impost duties, or taxes on intercolonial trade, or laws of navigation."<sup>1</sup>

<sup>1</sup> Given in George Bancroft, *History of the United States*, last revision, III. 98. These sentences of Grenville, which are not to be found in Hansard, seem to have been

These words of Grenville may help us to understand the position of the American Loyalists. They frankly admitted the maxim of "No taxation without representation"; but the most of them denied that the maxim was violated by the acts of Parliament laying taxation upon the colonies. Here everything depends, they argued, on the meaning to be attached to the word "representation"; and that meaning is to be ascertained by ascertaining what was understood by the word in England at the time when this old maxim originated, and in the subsequent ages during which it had been quoted and applied. Now, the meaning then attached to the word in actual constitutional experience in England is one which shows that the commons of America, like the commons of England, are alike represented in that great branch of the British Parliament which proclaims its representative character in its very name,—the House of Commons. During the whole period in which the maxim under consideration had been acquiring authority, the idea was that representation in Parliament was constituted, not by the fact of a man's having a vote for a member of Parliament, but by the fact of his belonging to one of the three great divisions of the nation which were represented by the three orders of Parliament,—that is, royalty, nobility, commonalty. Thus if you are a member of the royal family, the monarch is your representative, when he acts in his capacity as the highest of the three orders of Parliament, and this though you never voted for him, as of course you never did. Again, if you are a member of the nobility, and yourself without a seat in the House of Lords, you are represented in Parliament by the members of that house, even though you never voted for any of them. So, too, if you are of the commonalty, you are represented in Parliament by the men composing the House of Commons, even though you may never have had a vote for any of its members. In short, the old English idea of representation was, that the three great orders of the British Parliament—king, lords, and commons—represented severally the three great classes of the British people, to which their names correspond,—royalty, nobility, and commonalty,—and that they did so by virtue of the fact that each order might justly be supposed to be identified with the interests and to be familiar with the needs and the demands of its own class. Therefore, the historic meaning of the word "representation," as it was used in English constitutional expe-

compiled by Bancroft from several contemporary reports to be met with in private letters from persons who heard Grenville. Compare 18th ed. of Bancroft, V. 237, note.

rience, is a meaning which shows that the commons of America, as an integral part of the commons of the British Empire, are to all intents and purposes represented in that great branch of the British Parliament which, by its very name, announces itself as standing in a representative character towards the entire British commonalty.

It was no sufficient reply to this statement to say, as some did say, that such representation as has just been described was a very imperfect kind of representation. Of course it was an imperfect kind of representation; but, whatever it was, it was exactly the kind of representation that was meant by the old constitutional maxim thus cited; for it was the only kind of representation practised, or known, or perhaps ever conceived of in England during all those ages which had witnessed the birth and the growth of this old formula. The truth is that representation, as a political fact in this world, has thus far been a thing of degrees—a thing of less and of more; that perfect representation has even yet not been anywhere attained in this world; that in the last century representation in England was very much less perfect than it has since become; and, finally, that, in the period now dealt with, what had always been meant by the word “representation” in the British Empire was satisfied by such a composition of the House of Commons as that, while its members were voted for by very few even of the common people in England, yet, the moment that its members were elected, they became, in the eye of the constitution and in the spirit of this old formula, the actual representatives of all the commoners of the whole empire, in all its extent, in all its dominions and dependencies.

Accordingly, when certain English commoners in America at last rose up and put forward the claim that, merely because they had no votes for members of the House of Commons, therefore that House did not represent them, and therefore they could not lawfully be taxed by Parliament, it was very naturally said, in reply, that these English commoners in America were demanding for themselves a new and a peculiar definition of the word “representation”; a definition never up to that time given to it in England, and never of course up to that time claimed or enjoyed by English commoners in England. For, how was it at that time in England with respect to the electoral privilege? Indeed, very few people in England then had votes for members of the House of Commons,—only one-tenth of the entire population of the realm. How about the other nine-tenths of the population of the realm? Had not those British subjects in England as good a right as these British

subjects in America to deny that they were represented in Parliament, and that they could lawfully be taxed by Parliament? Nay, such was the state of the electoral system that entire communities of British subjects in England, composing such cities as Leeds, Halifax, Birmingham, Manchester, and Liverpool, — communities as populous and as rich as entire provinces in America, — had no votes whatever for members of Parliament. Yet, did the people of these several communities in England refuse to pay taxes levied by act of Parliament — that is, did they, for that reason, proclaim the Nullification of a law of the general government? “We admit,” continued the American Loyalists, “that for all these communities of British subjects — for those in England, as well as for these in America — the existing representation is very imperfect; that it should be reformed and made larger and more uniform than it now is; and we are ready and anxious to join in all forms of constitutional agitation, under the leadership of such men as Chatham, and Camden, and Burke, and Barré, and Fox, and Pownall, to secure such reform; and yet it remains true that the present state of representation throughout the British Empire, imperfect as it is, is representation in the very sense understood and practised by the English race whenever hitherto they have alleged the maxim, — ‘No taxation without representation.’ That old maxim, therefore, can hardly be said to be violated by the present imperfect state of our representative system. The true remedy for the defects of which we complain is reform — reform of the entire representative system both in England and in America — reform by means of vigorous political agitation — reform, then, and not a rejection of the authority of the general government; reform, and not Nullification; reform, and not a disruption of the empire.”

Such is a rough statement, and, as I think, a fair one, of the leading argument of the American Loyalists with respect to the first of the two great questions then dividing the American people, namely, the question of what was lawful under the existing constitution of the British Empire. Certainly, the position thus taken by the Loyalists was a very strong one, — so strong, in fact, that honest and reasonable Americans could take it, and stand upon it, and even offer up their lives in defence of it, without being justly liable to the charge that they were either peculiarly base, or peculiarly stupid.

Indeed, under this aspect of legality, the concession just made by us does scant justice to the Tories — or to the truth. The dispute, it must be remembered, had arisen among a people who were then subjects of the British Empire, and were proud of the fact;

who exulted in the blessings of the British constitution ; and who, upon the matter at issue, began by confidently appealing to that constitution for support. The contention of the Tories was that, under the constitution, the authority of the imperial Parliament was, even for purposes of revenue legislation, binding in America, as in all other parts of the empire, and even though America should have no members in the House of Commons. This the Whigs denied. It was, then, a question of British constitutional law. Upon that question, which of the two parties was in the right? Is it now possible to doubt that it was the Tories? A learned American writer upon the law, now one of the justices of the Supreme Court of the United States, in referring to the decision of Mr. Chief Justice Hutchinson sustaining the legality of Writs of Assistance, has given this opinion: "A careful examination of the question compels the conclusion . . . that there was at least reasonable ground for holding, as a matter of mere law, that the British Parliament had power to bind the colonies."<sup>1</sup> This view, of course, has been sustained by the highest English authorities upon British constitutional law, from the time of Lord Mansfield to the present. "As a matter of abstract right," says Sir Vernon Harcourt,<sup>2</sup> "the mother-country has never parted with the claim of ultimate supreme authority for the imperial legislature. If it did so, it would dissolve the imperial tie, and convert the colonies into foreign and independent states." "The constitutional supremacy of the imperial Parliament over all the colonial possessions of the crown," says another eminent English writer, "was formally reasserted in 1865, by an act passed to remove certain doubts respecting the powers of colonial legislatures. . . . It is clear that imperial acts are binding upon the colonial subjects of the crown, as much as upon all other British subjects, whenever, by express provision or by necessary intendment, they relate to or concern the colonies."<sup>3</sup>

But after the question as to what was lawful under the existing constitution of the British Empire, came the question as to what was expedient under the existing circumstances of the American colonies. Now, as it happened, this latter question had two aspects, one of which pointed toward the expediency of rejecting the taxing power of parliament, even though such power did exist

<sup>1</sup> Horace Gray, *Quincy's Mass. Reports : 1761-1762*, Appendix I., page 540.

<sup>2</sup> Writing as "Historicus," in *The Times*, for June 1, 1876, and cited in A. Todd, *Parliamentary Gov. in the Brit. Col.*, 27.

<sup>3</sup> A. Todd, *Parl. Gov.*, etc., 189. The act of Parliament above referred to, is 28 & 29 Vict. (1865), cap. lxiii., secs. 1, 2.

under the constitution ; the other pointed toward the expediency of separation from the empire.

Having in view, at present, the former aspect of this question, the American Whigs went forward and took the ground that, if the claim of Parliament to tax them was indeed justified by the constitution, then so much worse for the constitution, — since it was a claim too full of political danger to be any longer submitted to : “ If Parliament, to which we send no members, may tax us three pence on a pound of tea, it may, if it pleases, tax us a shilling, or a guinea. Once concede to it this right to tax us at all, and what security have we against its taxing us excessively? — what security have we for our freedom or our property against any enormity of oppression? ” And what was the answer of the American Tories to this argument? “ Yes,” said the Tories, “ you allege a grave political danger. But does it really exist? Is it likely ever to exist? Are you not guilty of the fallacy of arguing against the use of a power, simply from the possibility of its abuse? In this world every alleged danger must be estimated in the light of common sense and of reasonable probability. In that light, what ground have we for alarm? The line drawn by the supreme legislature itself for the exercise of its own power, is a perfectly distinct one, — that it should tax no part of the empire to a greater amount than its just and equitable proportion. As respects America, the supreme legislature has not yet overstepped that line; it has shown no disposition to overstep that line; we have not the slightest reason to suppose that it ever will overstep that line. Moreover, all the instincts of the English race are for fair play, and would be overwhelmingly against such an injustice, were Parliament to attempt it. It is thought in England that as we, British subjects in America, receive our share of the benefits of membership of the empire, so we ought to pay our share toward the cost of those benefits. In apportioning our share of the cost, they have not fixed upon an amount which anybody, even here, calls excessive; indeed, it falls rather below than above the amount that might justly be named. Now, in this world, affairs cannot be conducted — civilization cannot go on — without confidence in somebody. And in this matter, we deem it reasonable and prudent to have confidence in the good sense and in the justice of the English race, and especially of the House of Commons, which is the great council of the commoners of the English race. True, we do not at present send members to that great council, any more than do certain great tax-paying communities in England; but, then, no community even in England has, in reality, so many representatives in



Parliament—so many powerful friends and champions in both houses of Parliament—as we American communities have: not only a great minority of silent voters, but many of the ablest debaters and party-leaders there,—Barré, and Pownall, and Conway, and Fox, and Edmund Burke in the lower house, and in the upper house Lord Camden, and, above all, the great Earl of Chatham himself. Surely, with such men as these to speak for us, and to represent our interests in Parliament and before the English people, no ministry could long stand, which should propose any measure liable to be condemned as grossly beyond the line of equity and fair play.”

The Americans who took this line of reasoning in those days were called Tories. And what is to be thought of this line of reasoning to-day? Is it not at least rational and fair? Even though not irresistible, has it not a great deal of strength in it? Even though we, perhaps, should have declined to adopt it, are we not obliged to say that it might have been adopted by Americans who were both clear-headed and honest-minded?

And this brings us to the second aspect of the question of expediency,—the great and ultimate issue of the whole controversy,—that of Independence. Of course, no one pretended that separation from the empire was a right provided for by the constitution. All admitted that it could be resorted to only as a revolutionary measure required by some vast and commanding need in the existing circumstances of the American colonies. And what was the attitude of the American Tories respecting the project for independence?

In order to answer this question, we shall need to translate the word used for separation from the empire into its modern American equivalent. For, just as the Whig doctrine for the rejection of the taxing-power of the general government meant what in the nineteenth century we have known under the name of Nullification, so the Whig doctrine of separation from the empire meant precisely what we now mean by the word Secession. The American Revolution had just two stages: from 1765 to 1776, its champions were Nullifiers, without being Secessionists; from 1776 to 1783, they were also Secessionists, and, as the event proved, successful Secessionists. The word Independence was merely a euphemism for national disunion, for a disruption of the British Empire. What the Whig leaders resolved to do, under the name of Independence, about the middle of the year 1776, seemed to the American Tories of that time precisely the same political crime as, to the people of the Northern States, seemed

the measure undertaken by certain Southern leaders, in the latter part of 1860, under the name of Secession. In short, the Tories of the American Revolution, concerning whose standing in history we are now making inquiry, took between 1776 and 1783 constitutional ground similar to that taken by the people of these Northern States and by the so-called Loyalists of the Southern States between 1861 and 1865; that is, they were champions of national unity, as resting on the paramount authority of the general government.

Finally, the whole strength and dignity of their historic claim is not appreciated until we recall the fact that, for the first ten or twelve years of the Revolution,—from 1764 to 1776,—the entire Whig agitation was conducted on a perpetual disavowal of the purpose or the desire for independence. In every form in which a solemn affirmation could be made and reiterated, it was affirmed by the Whigs during all those years that the only object of their agitation was to obstruct and to defeat a bad ministerial policy, thereby to secure a redress of grievances; that, as for independence, it was the thing they abhorred, and it was mere calumny to accuse them of designing or of desiring it. Nearly all the greatest Whig pamphleteers prior to 1776—James Otis, Daniel Dulany, John Dickinson, and Alexander Hamilton—abjured independence as a measure full of calamity and crime. The Stamp Act Congress, speaking in the name of the several colonies, declared that their connection with Great Britain was their “great happiness and security,” and that they “most ardently” desired its “perpetual continuance.”<sup>1</sup> In January, 1768, the Massachusetts House of Representatives sent to their agent a letter of instructions, written by James Otis, and thus defining their opposition to the renewal by Parliament of its policy of taxing the colonies: “We cannot justly be suspected of the most distant thought of an independency on Great Britain. Some, we know, have imagined this; . . . but it is so far from the truth that we apprehend the colonies would refuse it if offered to them, and would even deem it the greatest misfortune to be obliged to accept it.”<sup>2</sup> In June, 1774, the same legislative body elected delegates to the First Continental Congress; and in their letter of instructions, signed by Samuel Adams, they declared that “the restoration of union and harmony between Great Britain and the colonists” was “most ardently desired by all good men.”<sup>3</sup> The First Continental Congress, in its solemn petition to the king, adopted October 26,

<sup>1</sup> *Prior Documents*, 29, 31.      <sup>2</sup> *Ibid.*, 167.

<sup>3</sup> *Journals of the Am. Cong.*, I. 2.

1774, professed the most devoted loyalty: "We wish not a diminution of the prerogative. . . . Your royal authority over us, and our connection with Great Britain we shall always carefully and zealously endeavor to support and maintain."<sup>1</sup> In March, 1775, Benjamin Franklin, then in London, repeated the statement which he had made in the previous year to Lord Chatham, that he had never heard in America one word in favor of independence "from any person, drunk or sober."<sup>2</sup> In May, 1775, shortly after American blood had been shed at Lexington and Concord, George Washington, crossing the Potomac on his way to the Second Continental Congress, was met midway in the river by a boat containing his friend, the Rev. Jonathan Boucher; and while their boats touched, Boucher kindly warned Washington that the errand on which he was going would lead to civil war and to an effort for independence. Such apprehensions were vigorously scouted by Washington, who then added, as Boucher says, "that if ever I heard of his joining in any such measures, I had his leave to set him down for everything wicked."<sup>3</sup> Soon after Washington's arrival at Philadelphia, and after the news had been received there of the bloody transactions at Lexington and Concord, the Continental Congress resolved upon a dutiful petition to the king, assuring him that, although his ministry had forced hostilities upon them, yet they most ardently wished "for a restoration of the harmony formerly subsisting between" the mother-country and the colonies.<sup>4</sup> The Americans who had just fought at Lexington and Concord, and the Americans who, a few days later, were to fight at Bunker Hill, would have spurned as a calumny the accusation that their object in fighting was independence. Washington's appointment as commander-in-chief, which was made two days before the battle of Bunker Hill, contained no intimation that he was to lead the armies in a struggle for independence. As soon as the news of his appointment reached Virginia, his old military company there sent him their congratulations on the honor he had received, closing their letter with the wish that all his "counsels and operations" might be directed by Providence "to a happy and lasting union between us and Great Britain."<sup>5</sup> On the 6th of July, 1775, the Congress which had thus appointed Washington to lead

<sup>1</sup> *Journals of the Am. Cong.*, I. 49.

<sup>2</sup> *The Complete Works of Benjamin Franklin*, Bigelow ed., V. 446.

<sup>3</sup> *Notes and Queries*, 5th ser., VI. 82-83.

<sup>4</sup> *Journals of the Am. Cong.*, I. 73.

<sup>5</sup> *Writings of Washington*, Sparks ed., III. 5, note.

their armies against the troops of the king, adopted their celebrated declaration, "setting forth the causes and necessity of their taking up arms," wherein they say: "Lest this declaration should disquiet the minds of our friends and fellow-subjects in any part of the empire, we assure them that we mean not to dissolve that union which has so long and so happily subsisted between us, and which we sincerely wish to see restored. . . . We have not raised armies with ambitious designs of separating from Great Britain, and establishing independent states."<sup>1</sup> When, a few days later, that declaration was read to General Putnam's troops, parading on Prospect Hill, near Boston, they greeted, with three loud cries of "Amen," the passage in which the Almighty was implored to dispose their adversaries "to reconciliation on reasonable terms."<sup>2</sup> More than two months after the battle of Bunker Hill, Jefferson wrote to a kinsman of his that he was "looking with fondness towards a reconciliation with Great Britain."<sup>3</sup> More than three months after that battle, the Committee of Chester County, Pennsylvania, with Anthony Wayne as their chairman, issued a statement denying that, in taking up arms, the people of that county intended "to overturn the Constitution by declaring an independency," and expressing their "abhorrence even of an idea so pernicious in its nature."<sup>4</sup> As late as the 22d of October, 1775, when Jeremy Belknap went to the American camp to officiate as chaplain, he publicly prayed for the king.<sup>5</sup> As late as December 25, 1775, the revolutionary Congress of New Hampshire officially proclaimed their disavowal of any purpose "aiming at independence," — a disavowal which they incorporated into the new constitution for New Hampshire adopted on the 5th of January, 1776.<sup>6</sup>

Such, then, upon the subject of Independence, was the attitude of all classes and parties in America during the first ten or twelve years of the Revolution. In just one sentiment all persons, Tories and Whigs, seemed perfectly to agree; namely, in abhorrence of the project of separation from the empire. Suddenly, however, and within a period of less than six months, the majority of the Whigs turned completely around, and openly declared for Independence, which, before that time, they had so vehemently repudiated.

<sup>1</sup> *Journals of the Am. Cong.*, I. 103.

<sup>2</sup> D. Humphreys, *Miscellaneous Works*, 271.

<sup>3</sup> *The Writings of Thomas Jefferson*, Ford ed., I. 482.

<sup>4</sup> *Am. Archives*, 4th ser., III. 794, 795.

<sup>5</sup> *Life of Belknap*, by his granddaughter, 96, 97.

<sup>6</sup> *The Federal and State Constitutions*, Poore ed., II. 1279.

What were the reasons for this astonishing change of front? Whatever they were, they were not such as to command the assent of all the members of the Whig party. For, at this sudden change of front, not a few of the men who had acted with the Whigs refused to follow the party any longer, and themselves became Tories.<sup>1</sup> What, then, did these new Tories say to their old associates, respecting the new direction taken by the Whig party? "It cannot be," said they, "that you have thus entered upon this long repudiated measure for Independence, because you really think that the objects for which we began the agitation and have thus far conducted it, cannot be obtained within the empire. All our demands are on the point of being granted. Our great friends in Parliament—Chatham, Camden, Burke, Conway, Barré, and the rest,—continually send us word that complete success is in sight; that if we will but hold on to our plan of agitation for larger rights inside the empire, retaining our allegiance, they can help us; that if we run up the flag of separation, of independence, we shall at once discredit them, and destroy all their power to be of any further use to us; that these political demands of ours have thus far been made by us after the method of our English ancestors, who, in cases of need, have roughly acquired an increase of political privilege, doing this as loyal subjects with weapons in their hands, and even enrolled as troops, never in the spirit of treason, never for the rejection of allegiance, never for the dissolution of national unity; that, even now, Lord North is quite ready to grant all our terms; that though the king still holds out against any concession, even he will have to yield to the people and to Parliament; that commissioners will soon be on their way hither to negotiate with us, and to concede to us that measure of local self-government which we have hitherto proclaimed as our sole object in the controversy; that by persisting a little longer in the line of action upon which we have hitherto conducted the whole movement, we shall certainly win for ourselves every political advantage we have ever professed to desire, and shall become a group of great, free, self-governing colonies within the British Empire. But as separation from the empire is not called for by any requirement of political safety, so our present resort to it would show either that we are fickle in opinion, or that we are political hypocrites—as our enemies have always charged us with being—and that, under all our disavowals of the purpose or the wish for Independence, we have been treacherously working with that very object all the time in view."

<sup>1</sup> For example, Daniel Dulany of Maryland.

## VI

The purpose of this paper will perhaps be sufficiently accomplished if, in addition to what has now been brought forward touching the personal character of the Loyalist party, and the strength of its argumentative position, attention is invited to three errors closely connected with the subject, and still prevalent in popular expositions of it.

First, it is an error to represent the Tories of the American Revolution as a party of mere negation and obstruction. They did deny, they did attempt to obstruct; but they also had positive political ideas, as well as precise measures in creative statesmanship, to offer in the place of those ideas and measures of their fellow-colonists to which they made objection, and which they would have kept from prevailing if they could.

Secondly, it is an error to represent the Tories of the American Revolution as a party opposed either to any reform in the relations of the colonists with the mother-country, or to the extension of human rights and liberties here or elsewhere. From the beginning of the agitation, they clearly saw, they strongly felt, they frankly declared, that the constitutional relations of the colonies with the mother-country were in a crude state, were unsatisfactory, were in need of being carefully revised and reconstructed. This admission of theirs, they never recalled. Quite aside from the question of its legality, they doubted the expediency, under modern conditions, of such an exertion of parliamentary authority as the ministry had forced into life. Upon these points, there was substantial agreement between all Americans; namely, that there was a wrong, that there was a danger, that there should be a reform. It was chiefly as to the method and the process and the scope of this needed reform, that Americans broke asunder into two great opposing parties. The exact line of cleavage between these two parties, together with the tone and the spirit characteristic of each party, may now be traced with precision in the history of the Congress of 1774.

Within that body, the Tory party, both as regards its political ideas and its conscientiousness, was represented by Joseph Galloway, who, indeed, had permitted himself to be made a delegate, in the hope of inducing the Congress to adopt such measures as would commit the American people to reform through reconciliation, rather than to reform through separation. Then it was that he brought forward his celebrated plan for curing the political

evils which all Americans complained of, and for preventing their recurrence. This was simply a scheme for what we should now call home-rule, on a basis of colonial confederation, with an American parliament to be elected every three years by the legislatures of the several colonies, and with a governor-general to be appointed by the crown. The plan came very near to adoption. The member who introduced it was himself a man of great ability and great influence; it was supported in debate by James Duane, by John Jay, and by Edward Rutledge; it was pronounced by the latter to be "almost a perfect plan"; and in the final trial it was lost only by a vote of six colonies to five. Could it have been adopted in Congress and outside, the disruption of the British Empire would certainly have been averted for that epoch, and, as an act of violence and of unkindness, would, perhaps, have been averted forever; while the thirteen English colonies would have remained English colonies, without ceasing to be free.<sup>1</sup>

Thirdly, it is an error to represent the Tories of our Revolution as composed of Americans lacking in love for their native country, or in zeal for its liberty, or in willingness to labor, or fight, or even to die, for what they conceived to be its interests. As was most natural, the party which succeeded in carrying through the Congress of 1774 such measures and methods of political reform as, in fact, led to civil war, and, finally, to American Independence, took for itself the name of the patriotic party, its members being commonly called "patriots." Beyond question, the Whig party was a patriotic party; but it is not now apparent that those Americans who failed in their honest and sacrificial championship of measures which would have given us political reform and political safety, but without civil war and without an angry disruption of the English-speaking race, can justly be regarded as having been, either in doctrine, or in purpose, or in act, an unpatriotic party.

MOSES COIT TYLER.

<sup>1</sup> Although Galloway's plan was regularly introduced into the Congress, and regularly debated there, and regularly voted on, yet, after it was rejected, all reference to it was swept from the records. It is not mentioned in the *Journals* of that Congress. The last few sentences in the above paragraph have been transferred by me from a book of mine on *Patrick Henry*, 102.